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**Federal Communications Commission**

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
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	)	
Lotus Bakersfield Corp.	)	File No. EB-FIELDWR-13-00006979
Licensee of Station KVMX(FM)	)	
Bakersfield, CA	)	NOV No. V201332900018

**NOTICE OF VIOLATION**

**Released: April 25, 2013**

By the District Director, Los Angeles Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules),<sup>1</sup> to Lotus Bakersfield Corp. (Lotus), licensee of station KVMX(FM), Bakersfield, California. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violations noted herein.<sup>2</sup>

2. On February 6, 2013, in response to a complaint, agents from the Enforcement Bureau's Los Angeles Office conducted on scene monitoring of station KVMX(FM). The monitoring revealed that station KVMX(FM) exceeded 100 percent modulation on peaks of frequent reoccurrence greater than 75 kHz deviation. The following violation was observed:

- a. 47 C.F.R. § 73.1570(b)(2): FM stations. "The total modulation must not exceed 100 percent on peaks of frequent reoccurrence referenced to 75 kHz deviation." At the time of inspection, the agents observed that Radio Station KVMX(FM) exceeded 75 kHz deviation on peaks of frequent reoccurrence.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,<sup>3</sup> and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Lotus Bakersfield Corp., must submit a written statement concerning this matter

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<sup>1</sup> 47 C.F.R. § 1.89.

<sup>2</sup> 47 C.F.R. § 1.89(a).

<sup>3</sup> 47 U.S.C. § 308(b).

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within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.<sup>4</sup>

4. In accordance with Section 1.16 of the Rules, we direct Lotus Bakersfield Corp. to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Lotus Bakersfield Corp. with personal knowledge of the representations provided in Lotus Bakersfield Corp.'s response, verifying the truth and accuracy of the information therein,<sup>5</sup> and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.<sup>6</sup>

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission  
Los Angeles Office  
18000 Studebaker Rd., Rm. 660  
Cerritos, California 90703

6. This Notice shall be sent to Lotus Bakersfield Corp. at its address of record.

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<sup>4</sup> 47 C.F.R. § 1.89(c).

<sup>5</sup> Section 1.16 of the Rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person . . . . Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'." 47 C.F.R. § 1.16.

<sup>6</sup> 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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7. The Privacy Act of 1974<sup>7</sup> requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Charles A. Cooper  
District Director  
Los Angeles Office  
Western Region  
Enforcement Bureau

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<sup>7</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).